

REMARKS

I. Introduction

In view of the above amendments and the following remarks, reconsideration of the rejections contained in the Office Action of July 21, 2009 is respectfully requested.

By this amendment claims 1, 34, and 40 have been amended, claim 5 has been cancelled without prejudice or disclaimer to the subject matter contained therein, and claims 44-48 have been added. Claims 1-4, 7-19, and 34-48 are now pending in the application. No new matter has been added by these amendments.

II. Prior Art Rejections

Currently, claim 40 stands rejected under 35 U.S.C. § 102(b) as being anticipated by Bech et al. (US 2002/0063067), claims 41-43 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Bech et al., claims 1-5, 10, 13-15, 17, 34, 37-39 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Bech et al. in view Bullen et al. (US 2003/0132109), and the remaining claims stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Bech et al. in view of Bullen et al. and in further view of various other prior art.

Claim 1 is patentable over Bech et al., Bullen et al., and the remaining prior art of record, whether taken alone or in combination, for the following reasons. Claim 1 requires A probe for measuring an electric potential of a cell, said probe being configured for use with a sucking device, said probe comprising, in part, a plate having a surface; a first cavity provided in the surface of the plate; a first flow passage provided in the plate, the first flow passage having a first opening and a second opening, the first opening of the first flow passage opening to the second cavity, the second opening of the first flow passage opening outside the plate; a second

flow passage provided in the plate, the second flow passage having a first opening and a second opening, the first opening of the second flow passage opening to the second cavity, the second opening of the second flow passage opening outside the plate; a sensor element provided in the first cavity, the sensor element including a thin plate and a supporting substrate; a measuring stick having a first end and a second end, the first end being connected with the plate; a first tube having a first end connected to the second opening of the first flow passage and having a second end opposite to the first end of the first tube, the first tube extending along the measuring stick to the second end of the measuring stick; and a second tube having a first end connected to the second opening of the second flow passage and having a second end opposite to the first end of the second tube, the second tube extending along the measuring stick to the second end of the measuring stick, wherein the supporting substrate of the sensor element is provided in the first cavity of the plate, wherein the first flow passage is configured to allow fluid to flow from the first tube into the plate through the second opening of the first flow passage, and wherein the sucking device is operable to suck the fluid flowing in the first flow passage through the second end of the second flow passage and through the second tube so as to hold the cell on the first opening of the through-hole of the thin plate.

On page 5 of the Office Action, the Examiner acknowledges that Bech et al. does not disclose a measuring stick or a tube, as required by claim 1. However, the Examiner asserts that Bullen et al. discloses a measuring stick and a tube; specifically, the guard pipette (60) and the bubble pipette (20) of Bullen et al. are asserted as corresponding to the measuring stick and the tube, respectively. However, Bullen et al. fails to disclose a second tube as recited in claim 1. As such, Bullen et al. cannot meet the requirements of claim 1. Further, Bullen et al. fails to disclose a sucking device operable to suck the fluid flowing in the first flow passage through the

second end of the second flow passage and through the second tube so as to hold the cell on the first opening of the through-hole of the thin plate. Neither Bullen et al. nor Bech et al. disclose this configuration, and no combination of those two references could yield such a configuration. Accordingly, Bech et al. and Bullen et al., whether taken alone or in combination, fail to meet the requirements of claim 1.

Claim 40 is patentable over Bech et al., Bullen et al., and the remainder of the prior art of record, whether taken alone or in combination, for the following reasons. Claim 40 requires a probe for measuring an electric potential of a cell, said probe being configured for use with a sucking device, said probe comprising a plate having an upper surface; a first cavity provided in the upper surface of the plate, the first cavity having a bottom surface; a second cavity provided in the bottom surface of the first cavity; a first flow passage provided in the plate, the first flow passage having a first opening and a second opening, the first opening of the first flow passage opening to the second cavity, the second opening of the first flow passage opening outside the plate; a sensor element provided in the first cavity, the sensor element having a thickness substantially equal to a depth of the first cavity such that an upper surface of the sensor element is substantially flush with the upper surface of the plate and a lower surface of the sensor element contacts the bottom surface of the first cavity; and a through-hole provided in the sensor element such that the second cavity is in fluid communication with an external environment at the upper surface of the plate, wherein the first flow passage is configured to allow fluid to flow in the plate such that the sucking device is operable to suck the fluid flowing in the first flow passage, and wherein the first flow passage has a curved path including at least three switchbacks.

On page 13 of the Office Action, the Examiner acknowledges that neither Bech et al. nor Bullen et al. disclose a curved flow passage. However, it is alleged that the Taylor reference

discloses a curved flow path. Claim 40 has been amended to require that the first flow passage has a curved path including at least three switchbacks. Because Bech et al. and Bullen et al. fail to disclose a curved flow passage, as acknowledged by the Examiner, those references likewise fail to meet the requirements of claim 40. Because Taylor fails to disclose a first flow passage having a curved path including at least three switchbacks, Taylor cannot meet the requirements of claim 40.

It is thus submitted that the invention of the present application, as defined in claims 1 and 40, is not anticipated nor rendered obvious by the prior art, and yields significant advantages over the prior art. Allowance is respectfully requested.

Claims 2-4, 7-19, 34-39, and 44-48 depend, directly or indirectly, from claim 1 and are thus allowable for at least the reasons set forth above in support of claim 1. Claims 41-43 depend, directly or indirectly, from claim 40 and are thus allowable for at least the reasons set forth above in support of claim 40.

In view of the foregoing amendments and remarks, inasmuch as all of the outstanding issues have been addressed, Applicants respectfully submit that the present application is now in condition for allowance, and action to such effect is earnestly solicited.

Should any issues remain after consideration of the response, however, the Examiner is invited to telephone the undersigned at the Examiner's convenience.

Respectfully submitted,

Masaya NAKATANI et al.

By /Andrew D. St.Clair/

Digitally signed by /Andrew D. St.Clair/
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email=astclair@wenderoth.com, c=US
Date: 2009.10.21 16:25:26 -04'00'

Andrew D. St.Clair
Registration No. 58,739
Attorney for Applicants

ADS/rgf
Washington, D.C. 20005-1503
Telephone (202) 721-8200
Facsimile (202) 721-8250
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